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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,361	06/15/2001	Melvin A. Park	140 - 030	6701

7590 10/19/2004
WARD & OLIVO
708 Third Ave
New York, NY 10017

EXAMINER

HASHMI, ZIA R

ART UNIT	PAPER NUMBER
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2881

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,361

Applicant(s)

PARK, MELVIN A.

Examiner

Zia R. Hashmi

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In response to Office Action of June 29, 2004, a response was received on September 13, 2004.

Response to Amendment

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-47 are rejected under U.S.C. 103(a) as being unpatentable over Whitehouse et al. (6, 403,952), in view of Li et al. (6, 570, 153).

5. With respect to independent claims 1, 21 and 41 and dependent claims 2-9, 12-15, 19-20, 22-27, 30-40 and 43-47, Whitehouse et al. disclose a method and apparatus for a mass spectrometer (col. 1, lines 14-17, col. 7, line 6 and 14 in Fig. 1), wherein said apparatus comprises: at least one pair of conducting rods (col. 4, line 66 and 42 in Fig. 2 & 3); at least one capping electrode (col. 6, lines 17-22); means for applying voltages to said conducting rods; and means for applying voltages to said capping electrodes (col. 2, lines 18-38, col. 11, lines 1-6, col. 12, lines 13-21 and 80 & 85 in Fig. 1); wherein said conducting rods are aligned in parallel (42 in Fig. 3), wherein said at least one capping electrode (col. 14, claim 1) bounds said conducting rods, and

wherein said at least one capping electrode comprises at least one opening (col. 6, lines 21-22). Their system has a plurality of vacuum stages (col. 6, lines 38-39, col. 8, lines 11-12, col. 11, lines 62-64 and Fig. 6) and the ion guide accepts sample ions from any ion production region, wherein the ion guide transfers sample ions into the analytical region (col. 11, lines 64-67, col. 12, lines 1-5 and 62 in Fig. 6).

6. With respect to claims 10-11, 16-18, 28-29 and 42, Whitehouse et al. fail to disclose a mass analysis region extended into a tandem spectrometry and a quadrupole mass analyzer and that their ion production means could be from a plurality of sources, like API (atmospheric pressure ionization) or MALDI (matrix assisted laser desorption ionization). Li et al., however, disclose that their mass analysis region comprises a tandem spectrometric and a quadrupole mass analysis region (Abstract, lines 1-3 & 17-24, col. 2, lines 58-67 and col. 3, lines 42-60) , and that their ion production means could be from a plurality of sources like, MALDI or atmospheric pressure chemical ionization, etc. (col. 5, lines 33-46).

It would have been obvious to one having ordinary skill at the time of the invention was made, to combine methods and apparatus of Li and Whitehouse et al., and use time-of-flight method of mass analysis—a well known practice in this art--because Li et al. teach (col. 1, lines 32-35) that mass spectrometry has proven to be very powerful analytical tool in material science, chemistry and biology along with a number of other related fields.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zia Hashmi whose telephone number is (571) 272-2473. The examiner can normally be reached between 8.30 AM- 5 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-2477.

Zia Hashmi

October 7, 2004.


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800